

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

BARRY WAYNE MILLER,	)	
	)	
Petitioner,	)	
	)	1:10CV802
v.	)	1:09CR241-1
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**O-R-D-E-R**

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 2, 2011, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

**IT IS THEREFORE ORDERED** that Petitioner's motion to vacate, set aside or correct sentence [Docket No. 56], as amended [Docket No. 59], is **DENIED** and that this action be, and the same hereby is, dismissed with prejudice. A

Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 21<sup>st</sup> day of February, 2014.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge